

EXHIBIT 8

January _____, 1940 letter to the Attorney General from Assistant
Secretary of the Interior Chapman

WRPT007784

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON

JAN 24 1940

The Honorable

The Attorney General.

My dear Mr. Attorney General:

This Department has received your letters of November 14, 24, and 30 (Your file WMC-CEP 215566), with further reference to the decree to be entered in the case of the United States v. Walker River Irrigation District et al., in the United States District Court of Nevada. The matters dealt with in your several communications have been carefully considered.

In our letter of November 1, the belief was expressed that the orders and the decree should specifically recite the priority of the United States on behalf of the Indians of the Walker River Reservation as being a first priority to the use of water as of November 29, 1859, the date of the establishment of this Indian reservation.

Your attention was invited therein to the fact that the decree refers to and protects certain reservoir storage rights of some of the defendants; that the reservoir rights of the United States are not mentioned; that construction of the Weber Reservoir was commenced in July, 1933, and that in view of the definite provision of Article XII of the proposed amended decree declaring that the decree shall be deemed as determining all of the rights of the parties, it becomes important that the storage rights of the plaintiff with a priority of July 1, 1933, should not be adversely affected.

The objections raised by Mr. Kearney, attorney representing certain of the defendants in the Walker River litigation, and the suggestions contained in the communications received by you from your Special Assistant, Roy W. Stoddard, have been carefully considered. If the principal objection voiced by Mr. Kearney is to the use of the term "first priority", it is suggested that the matter can be adjusted by amending line 26, page 10 of the proposed amended decree to read:

"irrigation season, all with a priority of November 30, 1859, the date of the establishment of the reservation."

Since this is the date that the Walker River Reservation was established as recognized in the decision of the Circuit Court of Appeals, it does not appear that any valid objection can be made to the wording as suggested.

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With respect to the suggestion that there be added to line 32, page 10 of the decree, after the word "reservation," certain language, the following language, suggested in Mr. Stoddard's letter of November 24 is agreeable to this Department:

" , provided however, that any change in point or points of diversion sought to be made by the United States of America to a point or points above the present boundaries of the Walker River Indian Reservation, shall not be made except upon petition to this Court and its approval obtained after hearing upon such notice as the court may order."

Such a provision would protect the interests of any water user whose rights are dealt with in this litigation. As a practical matter, should the United States on behalf of the Walker River Indians desire at some future time to change the present point of diversion to a place above the boundaries of the present Walker River Reservation, it would not attempt to act in such a way as to destroy or interfere with the rights of other water users.

Concerning the storage rights of the Walker River Reservation, it may be said that the matter is being checked to determine whether there are any storage rights initiated between June 1, 1933, and January 10, 1936, the date of the decree which is to be amended. If this investigation shows that no rights have been initiated between those dates, then there would appear to be no objection to the elimination of any reference to storage rights of the Indians. Should the investigation show otherwise, however, it would seem that the provisions of the decree should contain an exception. This could be accomplished by making line 4, page 72, read as follows:

"except the undetermined storage rights of the plaintiff and the undetermined storage rights of the Walker River Irrigation District."

You will be further advised concerning this phase of the matter as soon as the report has been received from the field by the Indian Office.

This Department is entirely in accord with the desire of the counsel for the defendants to have the decree provide for the appointment of a Water Master under the jurisdiction of the court. It is believed that since the Indian lands are the last to receive water from the river by reason of their location, their interests will be

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better protected under a Federal Court Water Master rather than to permit the distribution of the water to be under the control of a board of commissioners as appears to be the present practice. The Indians' water rights, as determined by the court, are of a limited nature and this should be considered in reaching a conclusion as to the share of the salary and expenses of the Water Master to be borne by the United States on behalf of the Indians.

Sincerely yours,

W. J. [Signature]
Assistant Secretary.